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EXAMINER

GRAYSAY, TAMARA L

ART UNIT PAPER NUMBER

3623

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/741,751

Applicant(s)

NAGLER ET AL.

Examiner

Tamara L. Graysay

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 December 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                                                      |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                          | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                                 | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/22/01, 5/7/01</u> . | 6) <input type="checkbox"/> Other: ____.                                                |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The three U.S. Patent Documents listed on the Information Disclosure Statement filed 07 May 2001 have been lined through because the documents were listed on an earlier filed Information Disclosure Statement. The documents have been initialed as being considered by the examiner on the Information Disclosure Statement listing filed 22 March 2001.

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because
- a. reference characters “210” and “300” have both been used to designate the entry seller attribute information (Fig.2 and 3);
  - b. “220” and “400” have both been used to designate the buyer project or job requirements (Fig.2 and 4);
  - c. “230” and “500” have both been used to designate the generate matching scores (Fig.2 and 5); and,
  - d. reference character “146” has been used to designate both an “input/output device” at P.5, L.27 (Fig.1) and a “storage” at P.12, L.20 (a storage of the attributes scoring and matching provider is not depicted in the figures, see paragraph 3.a. below).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If

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the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because:
  - a. they do not include the following reference sign(s) mentioned in the description:  
“146” described at P.12, L.20; however, the examiner suggests using a different reference numeral for the storage which should be depicted in Fig.1 since reference numeral “146” is currently used for two different elements as discussed in paragraph 2.d. above; and,
  - b. they include the following reference character(s) not mentioned in the description:  
“340” (Fig.3), recommend amendment to P.9, L.8-21; “440” (Fig.4), recommend amendment to P.14, L.1-14; and, “560” (Fig.5).

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Specification***

4. The disclosure is objected to because of the following informalities:

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- a. P.4, L.14, “a” should be --an--;
- b. a detailed description of the element designated by reference character “560” is lacking; and,
- c. P.47, L.1, the certifications look-up table does not include a rating number for the “Trader” certification.

Appropriate correction is required.

#### ***Claim Objections***

5. Claims 32, 43, and 54 are objected to because of the following informalities: --with-- should be inserted after “accordance.” Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 2-24, 29, 34-38, 40, 45-49, and 51 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The recitation of “said knowledge elements” in claims 2, 8, 12, 20, 24, 29, 34-38, 40, 45-49, and 51 is unclear as to the scope of the claims because both seller knowledge elements and buyer knowledge elements are recited in antecedent.

#### ***Claim Rejections - 35 USC § 101***

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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Claims 1-32 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The process claims 1-32 recite nothing more than an abstract idea because the claims are not tied to any technological art or environment and can be done manually by a human.

The basis of this rejection is set forth in a two-prong test: (1) whether the invention is within the technological arts; and (2) whether the invention produces a useful, concrete, and tangible result.

As to the first prong, for a claimed invention to be statutory the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the “progress of science and the useful arts” (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts. In the present case, even though process claims 1-32 include a practical application of generating an overall rating, the claimed process lacks a tie to any technological art. The process claims do not recite any limitations that involve a technology, and the claimed process steps do not require use of any technology to implement the invention. The steps merely convert background information and job requirements to categories of knowledge elements and generate a rating after weighting the knowledge elements. The method does not apply, involve, use, or advance the technological arts since all of the steps can be performed in the mind of the user or by use of a pencil and paper. The steps only constitute an abstract idea of how a buyer selects one seller over another.

As to the second prong, for a claimed invention to be statutory the claimed invention must produce a useful, concrete, and tangible result. In the present case, the claimed invention generates an overall rating.

In conclusion, process claims 1-32 meet the second prong of the two-prong test because they produce a useful, concrete, and tangible result, however, they do not meet the first prong because they are not within a technological art, as explained above. Therefore, process claims 1-32 are deemed to be directed to non-statutory subject matter.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1-5, 20, 29, 33, 34, 37, 40, 44, 45, 48, and 51 are rejected under 35 U.S.C. 102(e) as being anticipated by Haq (US-6275812).

Regarding claims 1 and 44, Haq discloses a method for generating an overall rating comprising the steps **(a)** reducing seller background to seller knowledge elements (e.g., skill set Ref.72; knowledge and experience profile Ref.73); **(b)** reducing buyer requirements to buyer knowledge elements (e.g., ideal employee skill set Ref.72; ideal employee knowledge and experience profile Ref.73); **(c)** assigning weight to knowledge elements common to seller and buyer (e.g., weight Ref.W, C.4, L.4-24); and **(d)** generating an overall rating (e.g., skills index average Ref.SIA, C.4, L.60+).

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Regarding claim 2 and 45, the knowledge elements are a plurality of seller skills (skill set Ref.72).

Regarding claim 3, the weight is applied in accordance with a knowledge category (knowledge and experience profile Ref.73).

Regarding claim 4, the knowledge category comprises a skill (Ref.72), role (Ref.71), and industry (specialty Ref.70).

Regarding claim 5, the buyer applies weight to each skill to represent an ideal employee skill level (C.4, L.25-53).

Regarding claims 20 and 48, work experience is a skill included in the skill set for each specialty or job (Ref.73).

Regarding claims 29 and 51, the knowledge elements comprise a skill (skill set Ref.72) possessed by the seller.

Regarding claim 33, Haq discloses **(a)** means for reducing seller background to seller knowledge elements (e.g., skill templates Ref.74); **(b)** means for reducing buyer requirements to buyer knowledge elements (e.g., skill template Ref.74); **(c)** means for applying weight to knowledge elements common to seller and buyer (e.g., C.4, L.4-24)); and **(d)** means generating an overall rating (e.g., skills index average Ref.SIA; C.4, L.60+).

Regarding claim 34, the knowledge elements are a plurality of seller skills (skill set Ref.72).

Regarding claim 37, work experience is a skill included in the skill set for each specialty or job (Ref.73).



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Regarding claim 40, the knowledge elements comprise a skill (skill set Ref.72) possessed by the seller.

11. Claims 1-5, 8-10,12, 15, 17, 20-24, 29, 32-38, 40, 43-49, 51, and 54 are rejected under 35 U.S.C. 102(e) as being anticipated by Kurzius (US-6385620).

Regarding claims 1 and 44, Kurzius discloses **(a)** reducing seller background to seller knowledge elements (e.g., categorize and index at C.3, L.63-65; and, parsing and processing at C.10, L.41-43); **(b)** reducing buyer requirements to buyer knowledge elements (e.g., job criteria at C.15, L.8-32); **(c)** assigning weight to knowledge elements common to seller and buyer (e.g., C.18, L.3-8; C.14, L.61-65; and C.15, L.8-32 and 45-47); and **(d)** generating an overall rating (e.g., C.18, L.16-19).

Regarding claims 2 and 45, Kurzius discloses the seller and buyer knowledge elements are skills (e.g., Fig.14B, skill inventory C.16, L.59-62).

Regarding claims 3-4, Kurzius discloses categorization of the knowledge elements into skill, role, and industry (e.g., Fig.17, and C.3, L.63-65).

Regarding claim 5, Kurzius discloses assigning weight according to buyer interest level (e.g., C.14, L.61-66).

Regarding claims 8-10 and 46, Kurzius discloses seller's ability to classify background information into education fields (e.g., C.9, L.56-57; C.19, L.9). The education fields disclosed include the type of education, such as institution, degree, and major (e.g., C.16, L.40-43; C.19, L.6 and 61).

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Further regarding claim 9, Kurzius discloses that the buyer may specify the seller's education or the degree (e.g., C.19, L.9) that is required for a particular job posting.

Regarding claims 12 and 47, Kurzius discloses special training or certification requirements as knowledge elements (e.g., C.9, L.59; C.19, L.7; C.19, L.61).

Regarding claim 15, Kurzius implies that certification level would be included in the seller's background information insofar as the seller may indicate a level of expertise in each skill (e.g., C.17, L.35-37).

Regarding claim 17, Kurzius discloses the buyer's use of a preference or ranking system to assign a weight to each skill (e.g., C.18, L.3-8; C.14, L.61-65; and C.15, L.8-32 and 45-47).

Regarding claims 20-23 and 48, Kurzius discloses work experience as part of the seller's background and the buyer's requirements (C.16, L.43-56; C.19, L.5 and 61). It is inherent that the seller's work experience would show commitment, relevance, and aging because the seller inputs the specifics of prior work experience or history including company, dates, positions, and salary.

Regarding claims 24 and 49, Kurzius discloses knowledge elements including skill, education, certification, and work experience as discussed with respect to claims 2, 8, 12, and 20 above.

Regarding claims 29 and 51, Kurzius discloses knowledge elements categorized into skill, role, or industry knowledge insofar as the seller includes prior job positions in the work experience portion of the seller's background (e.g., C.16, L.43-56).

Regarding claims 32 and 54, Kurzius is silent as to adjusting the overall rating in accordance with a penalty measure that correlates to an accrument of missing buyer knowledge elements. However, it is inherent that the Kurzius method includes adjusting the seller's overall rating in accordance with a penalty measure, as broadly recited, insofar as the seller's overall rating is adjusted by giving no credit for knowledge elements that the seller lacks.

Regarding claim 33, Kurzius discloses **(a)** means for reducing seller background to seller knowledge elements (e.g., categorize and index at C.3, L.63-65; and, parsing and processing at C.10, L.41-43); **(b)** means for reducing buyer requirements to buyer knowledge elements (e.g., job criteria at C.15, L.8-32); **(c)** means for applying weight to knowledge elements common to seller and buyer (e.g., C.18, L.3-8; C.14, L.61-65; and C.15, L.8-32 and 45-47); and **(d)** means generating an overall rating (e.g., C.18, L.16-19).

Regarding claim 34, Kurzius discloses the seller and buyer knowledge elements are skills (e.g., Fig.14B, skill inventory C.16, L.59-62).

Regarding claim 35, Kurzius discloses seller's ability to classify background information into education fields (e.g., C.9, L.56-57; C.19, L.9). The education fields disclosed include the type of education, such as institution, degree, and major (e.g., C.16, L.40-43; C.19, L.6 and 61).

Regarding claim 36, Kurzius discloses special training or certification requirements as knowledge elements (e.g., C.9, L.59; C.19, L.7; C.19, L.61).

Regarding claim 37, Kurzius discloses work experience as part of the seller's background and the buyer's requirements (C.16, L.43-56; C.19, L.5 and 61). It is

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inherent that the seller's work experience would show commitment, relevance, and aging because the seller inputs the specifics of prior work experience or history including company, dates, positions, and salary.

Regarding claim 38, Kurzius discloses knowledge elements including skill, education, certification, and work experience as discussed with respect to claims 33-37 above.

Regarding claim 40, Kurzius discloses knowledge elements categorized into skill, role, or industry knowledge insofar as the seller includes prior job positions in the work experience portion of the seller's background (e.g., C.16, L.43-56).

Regarding claim 43, Kurzius is silent as to a means for adjusting the overall rating in accordance with a penalty measure that correlates to an accrument of missing buyer knowledge elements. However, it is inherent that the Kurzius apparatus includes a means for adjusting the overall rating in accordance with a penalty measure, as broadly recited, insofar as the seller's overall rating is adjusted by giving no credit for knowledge elements that the seller lacks.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kurzius (US-6385620) in view of Walker (US-5884270), cited by applicant.

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Kurzius lacks the particulars of work experience desired by a buyer. Walker discloses a buyer searching for sellers by specifying the desired years of experience of a seller interested in a job posting to ensure that the seller is qualified for the position to be filled (e.g., C.8, L.54-61). It would have been obvious to modify Kurzius to include a knowledge element including the buyer's desired years experience of a seller, as suggested by Walker, in order to ensure that the seller who is considered for a position is qualified.

14. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haq (US-6275812).

Haq lacks the step of applying weight in accordance with the buyer's desired recency in years of experience. The examiner takes official notice that in the human resources management field a buyer's consideration of a seller's past work experience would include how recent the experience occurred. It is human nature that recollection of work experience and proficiency in related skills that are not in the seller's recent past may be diminished or forgotten, thereby causing a buyer to give more weight to recent work experience and less weight to not-so-recent work experience. It would have been obvious to one of ordinary skill in the art to modify the weighting system of Haq to include applying weight to work experience based on recency, as noted by the examiner, in order to account for possible diminished or forgotten skills.

15. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kurzius (US-6385620).

Kurzius lacks the step of applying weight in accordance with the buyer's desired recency in years of experience. The examiner takes official notice that in the human resources management field a buyer's consideration of a seller's past work experience would include how recent the experience occurred. It is human nature that recollection of work experience and proficiency in related skills that are not in the seller's recent past may be diminished or forgotten, thereby causing a buyer to give more weight to recent work experience and less weight to not-so-recent work experience. It would have been obvious to one of ordinary skill in the art to modify the weighting system of Kurzius to include applying weight to work experience based on recency, as noted by the examiner, in order to account for possible diminished or forgotten skills.

16. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kurzius (US-6385620) in view of Hartmann (US-6718340).

Kurzius discloses education requirements for job postings. The education fields disclosed include the type of education, such as institution, degree, and major (e.g., C.16, L.40-43; C.19, L.6 and 61). However, Kurzius is silent as to the buyer specifying the grade point average for the seller's education or degree. Hartmann teaches grade point average as part of the educational background component of the buyer requirements (Fig.4; GPA Ref.98, 108; C.7, L.54-59) and the seller information (Fig.3; GPA Ref. 98, 108) because it may provide a good indication of the seller's performance of job tasks after being hired, i.e., when a seller's performance on the job can be correlated to the seller's education grade point average. Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify Kurzius to include GPA as

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one of the knowledge elements, as suggested by Hartmann, in order to include the seller's education grade point average insofar as grade point average is a well-known indicator for determining a job applicant's ability to perform some job tasks related to the seller's education.

17. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurzius (US-6385620).

Kurzius lacks applying weight in accordance with a certification rating or dilution. Certification in these claims has been interpreted to include a buyer's specific requirement for a job position. Applicant defines certification rating as the quality of the certification and dilution is defined as the specificity of the certification. Kurzius teaches buyer consideration of certification, however, it lacks the step of applying weight in accordance with the certification rating or dilution. The examiner takes official notice that a buyer's consideration of a seller's certification would include the certification rating and dilution. It is known in the human resources field that a higher quality certification may more likely result in an improved skill level. Also, it is known in the human resources management field that a seller's certification that is directed to a specific skill may provide more value to a buyer than a certification that is general, i.e., covering many skills. It would have been obvious to one of ordinary skill in the art to modify the weighting system of Kurzius to include applying weight to a seller's certification based on the certification rating and dilution, as noted by the examiner, in order to better represent the seller's certification skill or knowledge element.

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18. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kurzius (US-6385620) in view of Niam (Article- Check before you hire).

Kurzius discloses applying weight to various knowledge elements; however, it is silent as the applying weight based on verification of a seller's certification. Niam teaches the use of background checks in order to lower the cost of hiring, reduce turnover, protect the firm's good name, and insulate the firm from certain legal problems, including negligent hiring lawsuits. Niam also suggests that an effective and comprehensive background check would include education verification, i.e., a buyer's comprehensive background check would include verification of a seller's information regarding education, including certifications that the seller obtained. It would have been obvious to modify the method of Kurzius, as discussed with regard to claim 12 above, to include verification of the seller's certification, such as suggested by Niam, in order to lower the cost of hiring, reduce turnover, protect the buyer's good name, and insulate the firm from certain legal problems, including negligent hiring lawsuits.

19. Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurzius (US-6385620) in view of Lacy (US-6735570).

Kurzius is silent as to the categorizing of a seller's certification. Lacy teaches the use of categories for seller's certification. The categories range from broad (corporate Fig.7, Ref.600), to middle (division Fig.7, Ref.602), to narrow (group Fig.7, Ref.604). These categories are the same as applicant's category designations – industry, role, and skill, respectively. It would have been obvious to modify Kurzius to include categorization of a seller's certification as it would relate to a particular group/skill,



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division/role, and corporate/industry as taught by Lacy, in order to ensure the proper certification that may be required for the buyer's job posting.

20. Claims 25-28, 39, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haq (US-6275812) in view of Barani (Article- Background investigations: how hr stays on the cutting edge).

Haq discloses the method and apparatus for generating an overall rating but is silent insofar as adjusting the overall rating in accordance with a third party service provider that verifies the seller's information including background, test performance, and training completion. Barani teaches verification of all professional and educational information by a third party service provider (investigator) to be sure that the seller (person) has the background he or she presented (application). It would have been obvious to one of ordinary skill in the art to modify the method and apparatus of Haq, as suggested by Barani, to include the step of or means for adjusting the overall rating based on information provided by a third party service provider, e.g., investigator, to be sure that the seller's overall rating reflects adjustment for information that has been verified as true or not true.

21. Claims 25-28, 39, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurzius (US-6385620) in view of Barani (Article- Background investigations: how hr stays on the cutting edge).

Kurzius discloses the method and apparatus for generating an overall rating but is silent insofar as adjusting the overall rating in accordance with a third party service provider that verifies the seller's information including background, test performance,

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and training completion. Barani teaches verification of all professional and educational information by a third party service provider (investigator) to be sure that the seller (person) has the background he or she presented (application). It would have been obvious to one of ordinary skill in the art to modify the method and apparatus of Kurzius, as suggested by Barani, to include the step of or means for adjusting the overall rating based on information provided by a third party service provider, e.g., investigator, to be sure that the seller's overall rating reflects adjustment for information that has been verified as true or not true.

22. Claims 30, 31, 41, 42, 52, and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurzius (US-6385620) in view of Luke (US-6131087).

Regarding claims 30, 41, and 52, Kurzius lacks the step of or means for assessing near miss knowledge elements. Luke discloses assessing applicants for near matches to the buyer's desired or required elements (e.g., Fig.2A, 2C; Ref.206, 206.1, 206.2, 206.3; C.7, L.61 – C.8, L.20) in order to transmit the information for the buyer's consideration in addition to exact matches when it is determined that the seller and buyer information that is intersecting within corresponding ranges (C.4, L.13-25). A near match, as disclosed by Luke, and a near miss, as claimed by applicant, are the same, insofar as the method and apparatus are used to determine if there are candidates that should be considered even though they are not an exact match to the buyer's requirements. It would have been obvious to modify Kurzius to include near miss sellers, such as suggested by Luke, in order to permit buyer to consider applicants who are nearly qualified for a position and the corresponding match to the buyer's requirements is within

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a range set by the buyer; for example, when no seller is an exact match to buyer's requirements.

Regarding claims 31, 42, and 53, the examiner takes official notice that a buyer's consideration of a seller's education would include its freshness, i.e., how recently the education occurred. It is known in human resources management that a buyer may give more weight to recent education and less weight to not-so-recent education because in the academic environment theory and practice taught in various fields of education change over time. It would have been obvious to one of ordinary skill in the art to modify the weighting system of Kurzius and Luke to include applying weight to education based on freshness, as noted by the examiner, in order to account for possible inadequacies in the education, i.e., lack of knowledge about recent theory or practice in the seller's field of education.

### ***Conclusion***

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Salmon (US- 5592375), cited by applicant, discloses the step of and means for assessing sellers who are near misses.
- Clark (US-5164897), cited by applicant, discloses a method and apparatus for matching sellers with buyers using job selection criteria determined by the buyer.
- LaLonde (WO-95/00911) discloses a method and apparatus for matching classified ad sellers and buyers.

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24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamara L. Graysay whose telephone number is (703) 305-1918.

The examiner can normally be reached on Monday - Friday from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



tg

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*AU-3623*